

CWP No.1187 of 2016
CWP No.3404 of 2016

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

- (1) **CWP No.1187 of 2016**
Date of decision:21.11.2017
- Bhagwan Singh and another ...Petitioners
- Versus
- Commissioner, Jalandhar Division, Jalandhar and others ...Respondents
- (2) **CWP No.3404 of 2016**
Date of decision:21.11.2017
- Bharpur Singh ...Petitioner
- Versus
- The Commissioner, Jalandhar Division, Jalandhar and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Aakash Singla, Advocate,
for the petitioners in CWP No.1187 of 2016 and
for respondents no.7 and 8 in CWP No.3404 of 2016.

Mr. Ramesh Sharma, Advocate,
for the petitioner in CWP No.3404 of 2016.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Naresh Kaushal, Advocate,
for respondents no.4, 5 and 10 in both the petitions.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of two petitions bearing CWP Nos.1187 and 3404 of 2016 as the issue involved in both the petitions is the same. However, for the sake of convenience, the facts are being extracted from CWP No.1187 of 2016.

This matter pertains to the partition of agricultural land.

Counsel for the petitioners has submitted that when the mode of

partition was initially proposed, opportunity to file objections was given and accordingly the objections were filed but, without deciding the objections, again the amended mode of partition was proposed. This time, without giving any opportunity of filing objections to the amended proposed mode of partition, *Naksha Jeem* has been sanctioned.

Counsel for the petitioners has submitted that the entire procedure has been made topsy-turvy by the Assistant Collector 1st Grade as the petitioners have a right to file objections to the amended proposed mode of partition and in case the objections are decided against them, then they have a right to challenge the same, in accordance with law.

Be that as it may, it is submitted that without inviting objections to the amended proposed mode of partition and even without preparing *Naksha Bey*, straightway *Naksha Jeem* cannot be sanctioned, which is the last stage of partition, after which only the *Sanad Taqsim* has to be prepared on the stamp paper.

Counsel for the respondents could not deny this fact as in their reply itself, they have mentioned that the Assistant Collector 1st Grade, after the amended proposed mode of partition, directed the Halqa Kanungo to prepare the *Naksha Jeem*.

Thus, in view of the aforesaid facts and circumstances, I am of the considered opinion that the Assistant Collector 1st Grade has committed a patent error of law, much-less the procedure, which is to be followed for deciding the partition application, has not been adhered to.

Consequently, both the writ petitions are allowed, impugned orders therein are set aside and the matter is remanded back to the Assistant

Collector 1st Grade to start the partition proceedings *de-novo* from the stage of amended proposed mode of partition. The petitioners may, if so advised, file their objections to the amended proposed mode of partition and then the Assistant Collector 1st Grade shall proceed further, in accordance with law.

The parties are directed to appear before the Assistant Collector 1st Grade concerned on 20.12.2017.

November 21, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No